

House File 393 - Introduced

HOUSE FILE 393
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 155)

A BILL FOR

1 An Act relating to the placement of a juvenile on youthful
2 offender status and the prosecution of a juvenile in
3 juvenile or district court, and access to child abuse
4 records by a juvenile court intake officer.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.8, subsection 1, paragraph c, Code
2 2013, is amended to read as follows:

3 c. Violations by a child, aged sixteen or older, which
4 subject the child to the provisions of section 124.401,
5 subsection 1, paragraph "e" or "f", or violations of section
6 723A.2 which involve a violation of chapter 724, or violation
7 of chapter 724 which constitutes a felony, or violations
8 which constitute a forcible felony are excluded from the
9 jurisdiction of the juvenile court and shall be prosecuted as
10 otherwise provided by law unless the district court transfers
11 jurisdiction of the child to the juvenile court upon motion
12 and for good cause pursuant to section 803.6. ~~A child over~~
13 ~~whom jurisdiction has not been transferred to the juvenile~~
14 ~~court, and who is convicted of a violation excluded from the~~
15 ~~jurisdiction of the juvenile court under this paragraph,~~
16 ~~shall be sentenced pursuant to section 124.401B, 902.9, or~~
17 ~~903.1.~~ Notwithstanding any other provision of the Code to
18 the contrary, the district court may accept from a child in
19 district court a plea of guilty, or may instruct the jury
20 on a lesser included offense to the offense excluded from
21 the jurisdiction of the juvenile court under this ~~section~~
22 paragraph, in the same manner as regarding an adult. The
23 judgment and sentence of a child in district court shall be as
24 provided in section 901.5. However, the juvenile court shall
25 have exclusive original jurisdiction in a proceeding concerning
26 an offense of animal torture as provided in section 717B.3A
27 alleged to have been committed by a child under the age of
28 seventeen.

29 Sec. 2. Section 232.8, subsection 3, paragraph a, Code 2013,
30 is amended to read as follows:

31 a. The juvenile court, after a hearing and in accordance
32 with the provisions of section 232.45, may waive jurisdiction
33 of a child alleged to have committed a public offense so that
34 the child may be prosecuted as an adult or youthful offender
35 for such offense in another court. If the child, ~~except a~~

1 ~~child being prosecuted as a youthful offender,~~ pleads guilty
 2 or is found guilty of a public offense other than a class
 3 "A" felony in another court of this state, that court may
 4 suspend the sentence or, with the consent of the child, defer
 5 judgment or sentence and, without regard to restrictions placed
 6 upon deferred judgments or sentences for adults, place the
 7 child on probation for a period of not less than one year
 8 upon such conditions as it may require. Upon fulfillment of
 9 the conditions of probation, a child who receives a deferred
 10 judgment shall be discharged without entry of judgment. A
 11 child prosecuted as a youthful offender shall be sentenced
 12 pursuant to section 907.3A.

13 Sec. 3. Section 232.28, subsection 3, paragraph b, Code
 14 2013, is amended to read as follows:

15 b. Check existing records of the court, law enforcement
 16 agencies, and public records of other agencies, and child abuse
 17 records as provided in section 235A.15, subsection 2, paragraph
 18 "e".

19 Sec. 4. Section 232.45, subsection 6, unnumbered paragraph
 20 1, Code 2013, is amended to read as follows:

21 At the conclusion of the waiver hearing the court may waive
 22 its jurisdiction over the child for the alleged commission of
 23 the public offense for the purpose of prosecution of the child
 24 as an adult if all of the following apply:

25 Sec. 5. Section 232.45, subsection 7, paragraph a,
 26 subparagraph (1), Code 2013, is amended to read as follows:

27 (1) The child is twelve through fifteen years of age or
 28 ~~younger~~ the child is ten or eleven years of age and has been
 29 charged with a public offense that would be classified as a
 30 class "A" felony if committed by an adult.

31 Sec. 6. Section 232.45A, subsections 2 and 3, Code 2013, are
 32 amended to read as follows:

33 2. Once a child sixteen years of age or older has been
 34 ~~waived to and convicted of an aggravated misdemeanor or a~~
 35 ~~felony in~~ by the juvenile court to the district court, all

1 subsequent criminal proceedings against the child for any
2 aggravated misdemeanor or felony occurring subsequent to
3 the date of the conviction of the child for any delinquent
4 act committed after the date of the waiver by the juvenile
5 court shall begin in district court, notwithstanding sections
6 232.8 and 232.45. A copy of the findings required by section
7 232.45, subsection 10, shall be made a part of the record
8 in the district court proceedings. However, upon acquittal
9 or dismissal in district court of all waived offenses and
10 all lesser included offenses of the waived offenses, the
11 proceedings for any delinquent act committed by the child
12 subsequent to such acquittal or dismissal shall begin in
13 juvenile court. Any proceedings initiated in district court
14 for a public offense committed by the child subsequent to the
15 waiver by the juvenile court, but prior to any acquittal or
16 dismissal of all waived offenses and lesser included offenses
17 in district court, shall remain in district court.

18 3. If proceedings against a child ~~for an aggravated~~
19 ~~misdemeanor or a felony~~ sixteen years of age or older who
20 has previously been waived to ~~and convicted of an aggravated~~
21 ~~misdemeanor or a felony in the district court~~ are mistakenly
22 begun in the juvenile court, the matter shall be transferred
23 to district court upon the discovery of the prior waiver and
24 conviction, notwithstanding sections 232.8 and 232.45.

25 Sec. 7. Section 232.50, subsection 1, Code 2013, is amended
26 to read as follows:

27 1. As soon as practicable following the entry of an order of
28 adjudication pursuant to section 232.47 or notification that
29 the child has ~~received a youthful offender deferred sentence~~
30 been placed on youthful offender status pursuant to section
31 907.3A, the court shall hold a dispositional hearing in order
32 to determine what disposition should be made of the matter.

33 Sec. 8. Section 232.52, subsection 1, Code 2013, is amended
34 to read as follows:

35 1. Pursuant to a hearing as provided in section 232.50, the

1 court shall enter the least restrictive dispositional order
2 appropriate in view of the seriousness of the delinquent act,
3 the child's culpability as indicated by the circumstances of
4 the particular case, the age of the child, the child's prior
5 record, or the fact that the child has ~~received a youthful~~
6 ~~offender deferred sentence~~ been placed on youthful offender
7 status under section 907.3A. The order shall specify the
8 duration and the nature of the disposition, including the type
9 of residence or confinement ordered and the individual, agency,
10 department, or facility in ~~whom~~ which custody is vested. In
11 the case of a child who has ~~received a youthful offender~~
12 ~~deferred sentence~~ been placed on youthful offender status, the
13 initial duration of the dispositional order shall be until the
14 child reaches the age of eighteen.

15 Sec. 9. Section 232.54, subsection 1, paragraph g, Code
16 2013, is amended to read as follows:

17 g. With respect to a juvenile court dispositional order
18 entered regarding a child who has ~~received a youthful offender~~
19 ~~deferred sentence~~ been placed on youthful offender status under
20 section 907.3A, the dispositional order may be terminated
21 prior to the child reaching the age of eighteen upon motion
22 of the child, the person or agency to whom custody of the
23 child has been transferred, or the county attorney following
24 a hearing before the juvenile court if it is shown by clear
25 and convincing evidence that it is in the best interests of
26 the child and the community to terminate the order. The
27 hearing may be waived if all parties to the proceeding
28 agree. The dispositional order regarding a child who has
29 ~~received a youthful offender deferred sentence~~ been placed on
30 youthful offender status may also be terminated prior to the
31 child reaching the age of eighteen upon motion of the county
32 attorney, if the waiver of the child to district court was
33 conditioned upon the terms of an agreement between the county
34 attorney and the child, and the child violates the terms of
35 the agreement after the waiver order has been entered. The

1 district court shall discharge the child's youthful offender
2 status upon receiving a termination order under this section.

3 Sec. 10. Section 232.54, subsection 1, paragraph h,
4 unnumbered paragraph 1, Code 2013, is amended to read as
5 follows:

6 With respect to a dispositional order entered regarding a
7 child who has ~~received a youthful offender deferred sentence~~
8 been placed on youthful offender status under section 907.3A,
9 the juvenile court may, in the case of a child who violates the
10 terms of the order, modify or terminate the order in accordance
11 with the following:

12 Sec. 11. Section 232.55, subsection 3, Code 2013, is amended
13 to read as follows:

14 3. This section does not apply to dispositional orders
15 entered regarding a child who has ~~received a youthful offender~~
16 ~~deferred sentence~~ been placed on youthful offender status under
17 section 907.3A who is not discharged from probation before or
18 upon the child's eighteenth birthday.

19 Sec. 12. Section 232.56, Code 2013, is amended to read as
20 follows:

21 **232.56 Youthful offenders — transfer to district court**
22 **supervision.**

23 The juvenile court shall deliver a report, which includes
24 an assessment of the child by a juvenile court officer
25 after consulting with the judicial district department of
26 correctional services, to the district court prior to the
27 eighteenth birthday of a child who has ~~received a youthful~~
28 ~~offender deferred sentence~~ been placed on youthful offender
29 status under section 907.3A. A hearing shall be held in
30 the district court in accordance with section 907.3A to
31 determine whether the child should be discharged from youthful
32 offender status or whether the child shall continue under the
33 supervision of the district court after the child's eighteenth
34 birthday.

35 Sec. 13. Section 235A.15, subsection 2, paragraph e, Code

1 2013, is amended by adding the following new subparagraph:

2 NEW SUBPARAGRAPH. (24) To an intake officer making a
3 preliminary inquiry pursuant to section 232.28, subsection 3.

4 Sec. 14. Section 901.5, Code 2013, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 14. Notwithstanding any provision in
7 section 907.3 or any other provision of law prescribing a
8 mandatory minimum sentence for the offense, if the defendant
9 is guilty of a public offense other than a class "A" felony,
10 and was under the age of eighteen at the time the offense was
11 committed, the court may suspend the sentence in whole or in
12 part, including any mandatory minimum sentence, or with the
13 consent of the defendant, defer judgment or sentence, and place
14 the defendant on probation upon such conditions as the court
15 may require.

16 Sec. 15. Section 907.3A, Code 2013, is amended to read as
17 follows:

18 **907.3A Youthful offender deferred sentence — youthful**
19 **offender status.**

20 1. Notwithstanding section 907.3 but subject to any
21 conditions of the waiver order, the trial court shall, upon
22 a plea of guilty or a verdict of guilty, ~~defer sentence of a~~
23 ~~youthful offender~~ place the juvenile over whom the juvenile
24 court has waived jurisdiction pursuant to section 232.45,
25 subsection 7, ~~and place the juvenile~~ on youthful offender
26 status. The court shall transfer supervision of the youthful
27 offender to the juvenile court for disposition in accordance
28 with section 232.52. An adjudication of delinquency entered
29 by the juvenile court at disposition for a public offense
30 shall not be deemed a conviction and shall not preclude
31 the subsequent entry of a deferred judgment or sentence,
32 conviction, or sentence by the district court. The court shall
33 require supervision of the youthful offender in accordance with
34 section 232.54, subsection 1, paragraph "h", or subsection 2
35 of this section. ~~Notwithstanding section 901.2, a presentence~~

~~1 investigation shall not be ordered by the court subsequent to
2 an entry of a plea of guilty or verdict of guilty or prior to
3 deferral of sentence of a youthful offender under this section.~~

4 2. The court shall hold a hearing prior to a youthful
5 offender's eighteenth birthday to determine whether the
6 youthful offender shall continue on youthful offender status
7 after the youthful offender's eighteenth birthday ~~under the~~
8 ~~supervision of the court or be discharged.~~ Notwithstanding
9 section 901.2, the court may order a presentence investigation
10 report including a report for an offense classified as a class
11 "A" felony. The court shall review the report of the juvenile
12 court regarding the youthful offender ~~and prepared pursuant to~~
13 section 232.56, and any presentence investigation report, if
14 ordered by the court. The court shall hear evidence by or on
15 behalf of the youthful offender, by the county attorney, and
16 by the person or agency to ~~whom~~ which custody of the youthful
17 offender was transferred. The court shall make its decision,
18 pursuant to the judgment and sentencing options available in
19 subsection 3, after considering the services available to the
20 youthful offender, the evidence presented, the juvenile court's
21 report, the presentence investigation report if ordered by the
22 court, the interests of the youthful offender, and interests
23 of the community.

24 3. a. Notwithstanding any provision of the Code which
25 prescribes a mandatory minimum sentence for the offense
26 committed by the youthful offender, following transfer of the
27 youthful offender from the juvenile court back to the court
28 having jurisdiction over the criminal proceedings involving the
29 youthful offender, the court ~~may continue the youthful offender~~
30 ~~deferred sentence or enter a sentence, which may be a suspended~~
31 ~~sentence.~~ shall order one of the following sentencing options:

32 (1) Defer judgment and place the youthful offender on
33 probation, upon the consent of the youthful offender.

34 (2) Defer the sentence and place the youthful offender
35 on probation upon such terms and conditions as the court may

1 require.

2 (3) Suspend the sentence and place the youthful offender
 3 on probation upon such terms and conditions as the court may
 4 require.

5 (4) A term of confinement.

6 (5) Discharge the youthful offender from youthful offender
 7 status and terminate the sentence.

8 b. Notwithstanding anything in section 907.7 to the
 9 contrary, if the district court ~~either~~ grants the youthful
 10 offender a deferred judgment, continues the youthful offender
 11 deferred sentence, or enters a sentence, and suspends the
 12 sentence, and places the youthful offender on probation, the
 13 term of formal supervision shall commence upon entry of the
 14 order by the district court and may continue for a period not
 15 to exceed five years. If the district court enters a sentence
 16 of confinement, and the youthful offender was previously placed
 17 in secure confinement by the juvenile court under the terms
 18 of the initial disposition order or any modification to the
 19 initial disposition order, the person shall receive credit for
 20 any time spent in secure confinement. During any period of
 21 probation imposed by the district court, a youthful offender
 22 who violates the terms of probation is subject to section
 23 908.11.

24 EXPLANATION

25 This bill relates to the judgment and sentencing procedures
 26 for juveniles who are either excluded from juvenile court
 27 jurisdiction by operation of law or who may be waived to adult
 28 court, and to juvenile court intake officer access to certain
 29 records. The bill also modifies the procedures relating to
 30 placement of a juvenile on youthful offender status by the
 31 district court.

32 Under the bill, when a complaint is filed pursuant to Code
 33 section 232.28 that a juvenile has committed a delinquent act,
 34 the juvenile court intake officer making a preliminary inquiry
 35 into the complaint shall be granted access to report data and

1 disposition data for cases of founded child abuse relating to
2 the juvenile who is the subject of the complaint. "Report
3 data" and "disposition data" are defined in Code section
4 235A.13.

5 Current law provides that if a child who has committed
6 a delinquent act is over 14 years of age and certain other
7 circumstances apply the child may be waived from juvenile
8 to district court for prosecution as an adult. Children 15
9 years of age or younger who commit certain felony offenses may
10 also currently be waived to district court for purposes of
11 prosecution as a youthful offender.

12 A youthful offender who has been waived from juvenile court
13 for purposes of prosecution in district court is, after a
14 guilty plea or conviction, transferred by the district court
15 for disposition and supervision by juvenile court until the
16 age of 18. Upon the youthful offender attaining the age of
17 18, under current law, the district court is required to hold
18 a hearing regarding the youthful offender's status and has
19 discretion to discharge the youthful offender or continue
20 supervision of the youthful offender in district court as
21 provided in Code section 907.3A.

22 The bill redefines when a child may be considered for
23 youthful offender prosecution and sentencing. The bill limits
24 use of the option to situations in which the child is 12
25 through 15 years of age and has committed offenses which would
26 be less than a class "A" felony if committed by an adult. For
27 offenses which would be classified as a class "A" felony, the
28 bill permits children who are 10 or 11 years of age to also be
29 prosecuted and sentenced as a youthful offender.

30 The bill standardizes the sentencing options and procedures
31 for a juvenile who is prosecuted as an adult either because
32 the offense is excluded from juvenile court jurisdiction or
33 because the juvenile is waived to district court, and for any
34 juvenile prosecuted as a youthful offender upon the youthful
35 offender attaining the age of 18. The bill provides that once

1 a juvenile has been waived to district court for prosecution
2 as an adult and convicted, all subsequent proceedings for any
3 delinquent act committed by that juvenile are to be commenced
4 in district court. The bill further provides that if a
5 juvenile has been waived to district court for prosecution as
6 an adult but is not convicted, subsequent proceedings for any
7 delinquent act committed by that juvenile are to be commenced
8 in juvenile court. The bill also allows the district court to
9 defer judgment, defer sentence, suspend a sentence and place
10 the juvenile or youthful offender on probation upon such terms
11 and conditions as the court may require, even if those options
12 are not available to adults for the offense. Current law
13 limits the sentencing options for certain offenses that are
14 excluded from juvenile court jurisdiction and does not allow
15 the district court to defer the sentence of a juvenile who has
16 been waived to district court pursuant to Code section 232.45
17 for prosecution as an adult or youthful offender.

18 Under the bill and in current law, upon the youthful
19 offender attaining the age of 18, the district court retains
20 the power to defer the sentence and place the youthful offender
21 on probation; sentence the youthful offender to a term of
22 confinement, or terminate the order placing the youthful
23 offender on youthful offender status and discharge the youthful
24 offender.

25 A "deferred judgment" means a sentencing option where the
26 adjudication of guilt and the imposition of a sentence are
27 deferred by the court. However, the court retains the power
28 to pronounce judgment and impose sentence subject to the
29 defendant's compliance with conditions set by the court as a
30 requirement of the deferred judgment.

31 A "deferred sentence" means a sentencing option where the
32 court enters an adjudication of guilt but does not impose a
33 sentence. The court does retain the power to sentence the
34 defendant to any sentence it originally could have imposed
35 subject to the defendant's compliance with conditions set by

1 the court as a requirement of the deferred sentence.

2 A "suspended sentence" means a sentencing option whereby
3 the court pronounces judgment and imposes a sentence and then
4 suspends execution of the sentence subject to the defendant's
5 compliance with conditions set by the court as a requirement of
6 the suspended sentence. Revocation of the suspended sentence
7 results in the execution of the sentence already pronounced.